

Introduced by Senator Hancock

February 17, 2011

An act to add Article 7 (commencing with Section 10390) to Chapter 2 of Part 2 of Division 2 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 555, as introduced, Hancock. Public contracts: state: bid preferences.

Existing law imposes various requirements with respect to contracting by state agencies.

This bill would require a state agency that accepts bids or proposals for specified contracts for goods or services exceeding \$1,000,000, or for the distribution of funds pursuant to the federal American Recovery and Reinvestment Act of 2009, on or before July 1, 2017, to provide a 5% preference, as provided, to a business that directly provides the goods or services when 90% of the employees of the business performing work on the contract reside in the state. This bill would state that these bidding preferences are not applicable to contracts that are subject to the State Contract Act or to contracts for specified professional services.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) California faces the most severe economic downturn since
2 the Great Depression. Over two million Californians are out of
3 work and California's unemployment rate is one of the highest in
4 the nation.

5 (b) At a time of scarce state resources, state contracts should be
6 used to stimulate our state economy and put people back to work.

7 (c) The purpose of this act is to revive local communities by
8 creating new jobs and stimulating the economy.

9 SEC. 2. Article 7 (commencing with Section 10390) is added
10 to Chapter 2 of Part 2 of Division 2 of the Public Contract Code,
11 to read:

12
13 Article 7. Preference for Businesses that Employ State Residents
14

15 10390. (a) On or before July 1, 2017, any state agency that
16 accepts bids or proposals for a contract for goods or services
17 exceeding one million dollars (\$1,000,000) shall provide a
18 preference of 5 percent to a business that would directly provide
19 the goods or services and certifies that at least 90 percent of the
20 business's employees performing work on the contract are residents
21 of this state. The preference shall be provided as follows:

22 (1) For solicitations to be awarded to the lowest responsible
23 bidder meeting specifications, the preference to a business that
24 certifies that at least 90 percent of the business's employees
25 performing work on the contract are residents of this state shall be
26 5 percent of the bid price of the lowest responsible bidder meeting
27 specifications.

28 (2) For solicitations to be awarded to the highest scored bidder
29 based on evaluation factors in addition to price, the preference to
30 a business that certifies that at least 90 percent of the business's
31 employees performing work on the contract are residents of this
32 state shall be 5 percent of the total score of the highest responsible
33 bidder.

34 (3) The preferences awarded pursuant to paragraph (1) or (2)
35 shall not be awarded to a noncompliant bidder and shall not be
36 used to satisfy any applicable minimum requirements.

37 (4) In order to be eligible for the 5-percent preference authorized
38 pursuant to this section, a business shall submit all required
39 substantiating documentation and information needed by the state
40 agency to determine if the business is eligible for the preference.

1 (b) On or before July 1, 2013, the Department of General
2 Services shall establish a process to verify that a business meets
3 the criteria for the 5-percent preference.

4 10391. (a) On or before July 1, 2017, any state agency that
5 accepts bids or proposals for the distribution of funds pursuant to
6 the federal American Recovery and Reinvestment Act of 2009
7 (Public Law 111-5) shall provide a preference of 5 percent of the
8 bid price or total score to a business that certifies that 90 percent
9 of the business's employees performing work on the qualifying
10 project are residents of this state. The preference shall be provided
11 as follows:

12 (1) For solicitations to be awarded to the lowest responsible
13 bidder meeting specifications, the preference to a business that
14 certifies that at least 90 percent of the business's employees
15 performing work on the contract are residents of this state shall be
16 5 percent of the bid price of the lowest responsible bidder meeting
17 specifications.

18 (2) For solicitations to be awarded to the highest scored bidder
19 based on evaluation factors in addition to price, the preference to
20 a business that certifies that at least 90 percent of the business's
21 employees performing work on the contract are residents of this
22 state shall be 5 percent of the total score of the highest responsible
23 bidder.

24 (3) The preferences awarded pursuant to paragraph (1) or (2)
25 shall not be awarded to a noncompliant bidder and shall not be
26 used to satisfy any applicable minimum requirements.

27 (4) In order to be eligible for the 5-percent preference authorized
28 pursuant to this section, a business shall submit all required
29 substantiating documentation and information needed by the state
30 agency to determine if the business is eligible for the preference.

31 (b) On or before July 1, 2013, using existing resources, the
32 Department of General Services shall establish a process to verify
33 that a business meets the criteria for the 5-percent preference.

34 (c) This section shall be implemented only to the extent
35 permitted by the American Recovery and Reinvestment Act of
36 2009 (Public Law 111-5).

37 10392. This article shall not apply to a contract that is subject
38 to Chapter 1 (commencing with Section 10100) of Part 2 of
39 Division 2 of this code, or Chapter 10 (commencing with Section

- 1 4525) or Chapter 10.1 (commencing with Section 4529.10) of
- 2 Division 5 of Title 1 of the Government Code.

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